

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Knowledge Daultin

Plaintiff

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

New York Police Commissioner, James P. O'Neill;
NY. Police Detective, Michael Bennett; and
Acting Brooklyn District Attorney, Eric Gonzalez.

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Defendants.

^{2nd}
AMENDED

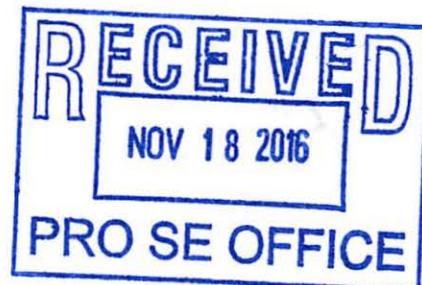
Complaint for Violation of Civil Rights

(Non-Prisoner Complaint)

Case No. 16-CV-6119 (LDH)(LB)

(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)



NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Vivianne Dustin</u>
Street Address	[REDACTED]
City and County	[REDACTED]
State and Zip Code	[REDACTED]
Telephone Number	[REDACTED]
E-mail Address	[REDACTED]

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	<u>Eric Gonzalez</u>
Job or Title (if known)	<u>Brooklyn Acting District Attorney</u>
Street Address	<u>350 Jay Street</u>
City and County	<u>Brooklyn, Kings County</u>
State and Zip Code	<u>N.Y., 11201</u>
Telephone Number	<u>718-250-2001</u>
E-mail Address (if known)	<u>BrooklynDA.org</u>

Defendant No. 2

Name James P. O'Neill
Job or Title (if known) NYC Police Commissioner
Street Address 1 Police Plaza
City and County (Manhattan) N.Y.
State and Zip Code N.Y., 10007
Telephone Number 646-610-5000
E-mail Address (if known) NYC.gov/NYPD

Defendant No. 3

Name Michael Bennett
Job or Title (if known) Detective of the N.Y.C. Police dept.
Street Address 127 Utica Ave,
City and County Brooklyn, Kings County
State and Zip Code N.Y., 11213
Telephone Number 718-735-0611
E-mail Address (if known) NYC.gov/NYPD 77 Precinct

Defendant No. 4

Name _____
Job or Title (if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address (if known) _____

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- State or local officials (a § 1983 claim)
- Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Defendant's deprived Plaintiff of his rights to be from free from illegal search and seizure without Probable Cause, his rights to the equal protection of the law all in violation of the 4th, 5th and 14th Amendments of the U.S. Constitution.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Defendant Detective Michael Bennett failed to provide adequate Probable Cause for arresting Plaintiff. Defendants failed to properly investigate the allegations and (see attached paper 4-A for continuation of II-D of this page.)

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

Kings County, Brooklyn, N.Y. in the vicinity of the Brooklyn Family Ct.

B. What date and approximate time did the events giving rise to your claim(s) occur?

Plaintiff was arrested on January 11, 2016, at or after 11 a.m..

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On June 13, 2012, Plaintiff, upon a plea of guilty received an Order of Protection to stay away from his children's mother (hereinafter referred to as Denique) (Exhibit A at pg. 6). On or about February 19, 2013, Denique made a report stating that at 582 Park place, Plaintiff threatened her over the telephone (Exhibit B). Denique's description of Plaintiff to the detectives was based on a recognition of Plaintiff's voice and statements of threatening SMS messages sent to her from Plaintiff was also made (Exhibit B). From these statements an I-card warrant for Plaintiff's arrest was issued on February 28, 2013 (Exhibit C). On or around (or after) 11 a.m. on January 11, 2016 (see attached -5A for continuation)

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Because of Defendants actions, Plaintiff has and currently suffer from mental and emotional problems.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

damages in the amount of \$5,000 against each Defendant jointly and severally, Punitive damages in the amount of \$ 5,000 against each Defendant. Plaintiff's Costs in this suit. Any additional relief this Court deems to be just and proper.

VI. Certification and Closing

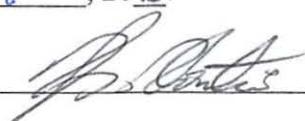
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11/18, 2016.

Signature of Plaintiff



Printed Name of Plaintiff

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(Continuation to Pg 4 II-D)

Circumstances of the Order of Protection and Denique accusations and their decision to quickly arrest Plaintiff on the basis that he is a man in a domestic dispute without proper investigation and substantive evidence afforded less protection to Plaintiff than a woman being accused of allegations in a domestic violence situation.

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16-CV-16119 (LHK, J.) (H.J., Bloom, J.)

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(continuation to pg 5 III-C)

Plaintiff was arrested inside the vicinity of the Kings
County Brooklyn Family Courthouse for two counts of

Criminal Contempt in the 1^o (Penal Law 215.51 (B)(3)(4)),
two counts of Aggravated Harrassment in the 2^o (PL

240.30 (i),(A),(2), and Harrassment in 2^o stemming

from the February 19, 2013 complainant report (Exhibit B),

The arresting officer was Defendant Detective Michael
Bennett (Exhibit B). Plaintiff were then arraigned on January

12, 2016. On July 29, 2016, all charges against Plaintiff were
dismissed.